

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT (CORRECTED)
LB543

Hearing Date: Wednesday March 13, 2013
Committee On: Judiciary
Introducer: Chambers
One Liner: Change a penalty from death to life imprisonment or life imprisonment without possibility of parole

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye:	7	Senators Ashford, Chambers, Coash, Davis, Lathrop, McGill, Seiler
Nay:		
Absent:		
Present Not Voting:	1	Senator Christensen

Proponents:

SEN. ERNIE CHAMBERS
JERRY SOUCIE
JIM CUNNINGHAM
CAROL WINDRUM

LOWEN KRUSE
WILLIAM THORNTON
JOHN KRECJI
MIRIAM TIMM-KELLEY
CURTIS MCCARTY
LAUREL JOHNSON
AMY MILLER
HARRY L. MUHLBACH
STACY ANDERSON

ALAN PETERSON

Opponents:

DON KLEINE
JOE KELLY

Neutral:

RICHARD DIETER

Representing:

INTRODUCER
NCDAA
NEBRASKA CATHOLIC CONFERENCE
NE CONFERENCE OF THE UNITED METHODIST CHURCH
SELF
SELF
NEBRASKANS FOR PEACE
SELF
SELF
NASW
NEBRASKA INNOCENCE PROJECT
SELF
NEBRASKANS FOR THE ABOLITION OF THE DEATH PENALTY
ACLU NEBRASKA

Representing:

NE COUNTY ATTORNEY ASSOCIATION
NE COUNTY ATTORNEYS ASSOCIATION

Representing:

DEATH PENALTY INFORMATION CENTER

Summary of purpose and/or changes:

Legislative Bill 543 proposes to change the maximum penalty for first degree murder in Nebraska from death to life imprisonment without possibility of parole.

Below is a section by section description of LB 543.

Section 1 -Legislative Intent

Section 2 - Amends 23-3406 relating to counties contracting with public defenders to strike the phrase "including capital cases"

Section 3 - Amends 24-1106 relating to appeals to replace a reference to capital cases with a reference to cases in which life imprisonment without parole has been imposed.

Section 4 - Amends 25-1140.09 to remove a reference to a capital sentencing notice provision which required preparation of transcripts in all capital cases and is no longer applicable.

Section 5 - Amends 28-104 to strike a reference to a criminal violation for which death may be imposed

Section 6 - Amends 28-105, the change the penalty for a Class I felony from death to life imprisonment without possibility of parole.

Section 7 - Amends 28-303, the first degree murder statute, to remove from this section the ability to convict for a first degree murder offense, a person who "by willful and corrupt perjury or subornation of the same he or she purposely procures the conviction and execution of any innocent person." As the penalty is being repealed under this act, a person would not be able to procure a conviction and execution going forward.

Section 8-Amends 29-1602, Strikes the word "therein" and replaces it with "in the information".

Section 9 - Amends 29-1603, which sets forth the required contents of criminal information, to remove reference to the death penalty and replace it with life imprisonment without possibility of parole.

Section 10- Amends 29-1822, relating to mentally incompetent criminal defendants, to remove language staying the imposition of the death penalty during a period of mental incompetence.

Section 11 - Amends 29-2004, relating to jury selection, to replace language referring to the death penalty with life imprisonment without possibility of parole.

Section 12 - Amends 29-2005, which provides the number of preemptory juror challenges a defendant is entitled to in capital cases, to replace references to the death penalty with life imprisonment without possibility of parole.

Section 13 - Amends 29-2006, which lists the basis for good cause challenges of prospective jurors, to strike as the basis for a challenge in death eligible cases that a juror would be unable to render a guilty verdict if the accused faced the possibility of receiving the death penalty.

Section 14 - Amends 29-2020, relating to requesting a bill of exceptions, to strike language referring to a procedure only used in death penalty cases.

Section 15 - Amends 29-2027 to change a statutory reference to remove an unnecessary reference to a title section (29-2524).

Section 16 - Amends 29-2204, the indeterminate sentencing statute, to remove outdated language and references to the death penalty

Section 17- Amends 29-2282, the restitution statute, to include the pain and suffering of the victim as an item for which restitution may be ordered in cases where the victim dies as a result of the offense.

Section 18 - Amends 29-2407, which provides that criminal fines and costs are to be a lien against a defendant, to remove references to the death penalty.

Section 19 - Creates a new section to provide that only subject to the constitutional powers provided to the Board of Pardons, a person sentenced for the conviction of a Class I felony shall serve a term of life imprisonment without parole. This section also provides that a person sentenced to life imprisonment for a Class IA felony would only be considered for parole as provided under sections 83-192 and 83-1,106 to 83-1,125.

Section 20 - New language clarifying that the changes made by this bill shall not restrict or limit the ability of a court to order restitution in cases other than first degree murder convictions or restrict the ability of the Department of Corrections to determine appropriate security considerations for confined offenders.

Section 21 - New Language requiring death sentences issued prior to effective date of this act which have not been carried out to be changed to life imprisonment without possibility of parole and with order of restitution.

Section 22 - Amends 29-2519 to strike statutory references of death sentences and sentences of death in this section and replaces them with life imprisonment without parole. This section also strikes the legislative intent pertaining to the Ring v. Arizona (2000) U.S. Supreme Court decision.

Section 23 - Amends 29-2521, the statute setting forth the procedure for determining aggravating and mitigating circumstances in first degree murder sentencing proceedings, to replace death with "life imprisonment without possibility of parole"

Section 24 - Amends 29-2522, which outlines procedures for first degree murder sentence determination proceedings, to replace death with "life imprisonment without possibility of parole", to strike "without parole" from the references to the minimum penalty for first degree murder and to strike language regarding the setting of an execution date.

Section 25 - Amends 29-2523, setting forth the statutory aggravating factors for first degree murder, to correct a statutory reference, make technical corrections and change the aggravating factor "the defendant knowingly created a great risk of death to at least several persons" to "knowingly created a great risk of death to more than one person".

Section 26 - Amends 29-2801, establishing the procedures for state habeas corpus petitions, to remove references to capital sentences and make other technical corrections.

Section 27 - Amends 29-3205 to correct a statutory reference and remove a reference to a death sentence.

Sections 28 to 32 - Amends sections 29-3920, 3922, and 3928-3930, relating to the Public Advocacy Commission, to strike references to capital cases and insert first degree murder.

Section 33 - Amends section 55-480 to clarify a statutory reference to the Nebraska Code of Military Justice.

Section 34 - Amends 83-1,110.02, the medical parole statutes to replace death penalty with life imprisonment without possibility of parole.

Section 35 - Amends 83-4,143, the Work Ethic Camp eligibility statute, to remove a reference to a capital crime.

Section 36 - Repealer

Section 37 - Outright Repealer

Brad Ashford, Chairperson